

N.D.A.G. Letter to Sillers (March 18, 1986)

March 18, 1986

Mr. Cameron D. Sillers
Cavalier County State's Attorney
Cavalier County Courthouse
901 Third Street
Langdon, ND 58429

Dear Mr. Sillers:

Thank you for your letter of February 25, 1986, wherein you inquire whether a section line road used by the public and intersecting a township road is considered to be part of the township system.

In a prior opinion of this office it was concluded that a board of township supervisors was vested with discretion in designating what roads constituted the township road system. 1983 N.D. Atty. Gen. Op. 91 (copy attached). While the above opinion dealt with a board of township supervisors' obligation to construct a road on a section line at the request of an abutting owner, the logic of the opinion would also have application to an individual's request to have a section line road made part of the township road system. That opinion is controlling as to the present question.

While the section line road intersects a township road and may be utilized by the public, such facts by themselves do not mandate that a board of township supervisors designate it as a township road. The accomplishment of such a designation for a road requires the exercise of the discretion vested in a board of township supervisors.

Therefore, it is my opinion that a section line road by virtue of public use and its intersection with a township road does not automatically become a township road. Instead, such a road may be declared a township road only by action taken by the board of township supervisors.

Sincerely,

Nicholas J. Spaeth
Attorney General

ja
Enclosure
cc: Larry Bakken